

## REMARKS/ARGUMENTS

Applicant affirms the election of Group I, claims 1 – 7 for prosecution in the present application.

Applicant believes no response is yet required to the provisional obviousness-type double patenting rejection inasmuch as the claims of co-pending Application No. 09/916,541 contended to be conflicting have not yet been patented.


The rejection of claims 1 - 7 under 35 U.S.C. § 102(b) as being anticipated by Beregovski, et al. is respectfully traversed. Independent claim 1 has been amended to call for the sensor region to be separate and spaced from the phase control section whereas, in distinction, Beregovski et al. apply their sensitive coating directly to the phase sections. Moreover, the claims are not obvious over Beregovski et al. because separating and spacing the sensor region from the phase control section is a configuration not at all suggested by Beregovski et al. Indeed, Beregovski et al. teach away from the invention in that they describe the phase section, or the phase section and grating, of the sensing layer as covered with a layer sensitive to the chemical in question (page 117, paragraph 2.1 with regard to Figure 1 of Beregovski et al.).

Applicant submits that the claims are in condition for allowance and respectfully solicits a Notice of Allowance.

The Commissioner is hereby authorized to charge payment of any fees required associated with this communication or credit any overpayment to Deposit Account No. 50-0337. If an extension of time is required please consider this a petition therefor and charge any additional fees which may be required to Deposit account No. 50-0337. A duplicate copy of this paper is enclosed.

Respectfully submitted,

Date: October 10, 2003

  
Robert Berliner  
Registration No. 20,121  
(213) 892-9237